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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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MICHAEL BRUCE BYNOE,

Petitioner,

v.

DARLA FOLEY,

Respondent.

Case No. 3:18-cv-00326-MMD-CBC

ORDER

Petitioner submitted an application to proceed *in forma pauperis* (ECF No. 3) and a petition for a writ of mandamus. Petitioner does not have sufficient funds to make an initial payment. Petitioner still must pay the filing fee in full through monthly installment payments.

Petitioner asks the Court to reverse and vacate an order of the Nevada Court of Appeals. (ECF No. 1-1 at 3.) That order denied a petition for a writ of mandamus directed to the executive secretary of the Nevada Parole Board. (*Id.* at 6-7.)

This court lacks jurisdiction to consider the petition for a writ of mandamus. The All Writs Act, 28 U.S.C. § 1651, allows the Court to grant extraordinary writs where the Court has jurisdiction. However, the All Writs Act does not confer jurisdiction by itself; instead, another statutory or constitutional provision must confer jurisdiction upon the Court. *Stafford v. Superior Court*, 272 F.2d 407, 409 (9th Cir. 1959). No such provision exists that would give this Court jurisdiction to issue a writ of mandamus to a state court. See *Demos v. United States Dist. Court for E. Dist. of Wash.*, 925 F.2d 1160, 1161-62 (9th Cir. 1991).

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1 It therefore is ordered that Petitioner's application to proceed *in forma pauperis*
2 (ECF No. 3) is granted. Petitioner will not be required to pay an initial partial filing fee.
3 However, even though this action is being dismissed, by commencing this action Petitioner
4 incurred the obligation to pay the full filing fee pursuant to 28 U.S.C. § 1915(b)(2).

5 It further is ordered that, pursuant to 28 U.S.C. § 1915(b)(2), the Nevada
6 Department of Corrections must pay to the Clerk of the United States District Court, District
7 of Nevada, 20% of the preceding month's deposits to Petitioner's account (inmate
8 #64628), in the months that the account exceeds \$10.00, until the full \$350 filing fee has
9 been paid for this action. The Clerk is instructed to send a copy of this order to the finance
10 division of the Clerk's office. The Clerk also is instructed to send a copy of this order to the
11 attention of the chief of inmate services for the Nevada Department of Corrections, P.O.
12 Box 7011, Carson City, NV 89702.

13 It further is ordered that this action is dismissed for lack of jurisdiction. The Clerk of
14 the Court is instructed to enter judgment accordingly and close this action.

15 DATED THIS 14th day of November 2018.

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18 MIRANDA M. DU
19 UNITED STATES DISTRICT JUDGE
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